

AGREEMENT BETWEEN
THE CITY OF PORTLAND, MAINE

AND
THE COMMUNICATIONS EMPLOYEES ASSOCIATION

July 1, 2005 to June 30, 2007

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A G R E E M E N T

This Agreement is hereby made and entered into this ____ day of July, 2005 by and between the City of Portland, hereinafter referred to as the "City" and the Communications Employees Association, hereinafter referred to as the "Association", an affiliate of the International Association of Firefighters Local 740.

1. PREAMBLE:

- 1.1 Pursuant to the provisions of the Municipal Public Employees Labor Relations Law (Chapter 9-A, Title 26, Maine Revised Statutes Annotated, MRSA) the parties have entered into this Agreement with the goal of establishing mutual rights, preserving proper employee morale, and promoting effective municipal operations.

2. RECOGNITION:

- 2.1 The City hereby recognizes that the Association is the sole and exclusive representative for the purpose of bargaining with respect to wages, hours of work, working conditions, and contract grievance arbitration of all Telecommunicators and Telecommunications Supervisors within the Police Department, and of all Telecommunicators, Telecommunications Supervisors and Fire Alarm Technicians within the Fire Department except employees excluded by Chapter 9-A, Title 26, Maine Revised Statutes Annotated.
- 2.2 For purposes of this Agreement, permanent full-time employees are those employees who are appointed to a permanently budgeted position to work the standard work schedule on a continuing basis. Permanent full-time employees are entitled to full benefits under this Agreement.
- 2.3 In the event that permanent part-time positions are created, permanent part-time employees will be entitled to prorated fringe benefits and shall pay a prorated cost of the health insurance benefit if they elect to participate in the group health plan.
- 2.4 All new employees in permanently budgeted positions shall serve a probationary period of six (6) months. Upon completion of the six (6) month probationary period, that period shall be considered part of the employee's seniority time. In addition, any employee who becomes a permanent employee, and who has previously served in the same classification as a temporary or seasonal employee without a break in service, shall have such temporary or seasonal time credited against their probationary period. New

Employees are eligible for benefits provided under this collective bargaining agreement as earned or accrued in accordance with the provisions of this contract. Health insurance benefits shall be provided effective the first month following the employee's date of hire. Probationary employees may use any benefit provided as soon as entitled.

3. UNION SECURITY:

- 3.1 Effective as of January 1, 1985, it shall be a condition of employment that employees either (1) join the Union, or (2) agree to pay their fair share toward the Union's cost of collective bargaining, contract administration, and the adjustment of grievances through payroll deductions as outlined in this Article. The Union shall establish said fair share annually, not to exceed 85% of full Union dues and shall notify the City promptly as to the percentage and dollar amount of said fair share. Employees not in the Union as of the execution date shall have 10 days after execution, and new hires shall have 10 days after completion of their probationary period, within which to join the Union or to agree to pay the fair share amount.
- 3.2 The Union agrees to establish a bona fide internal Union procedure to allow non-Union employees in the unit to challenge the level of the fair share deduction established hereunder. The Association will insure that the challenge procedure complies with all applicable Federal and State Law. In the event of any challenge to the fair share provision, the City shall not be required to discharge any employee(s) for failure to comply with this provision until after the employee(s) have exhausted their internal Union remedies and so long as there is any litigation pending. After such exhaustion and in the absence of any pending litigation, the City shall provide any employee who has not elected to join the Union or to pay their fair share with written notice that he has 30 days to make such election or be discharged from service. Any discharge under this provision is reviewable only in Court and is not grievable or subject to the City of Portland Civil Service Ordinance.
- 3.3 Upon receipt of a written authorization card from the employee, the City shall deduct either the full Union dues or the fair share dues as indicated. The City has no obligation to pay the Union any dues payment for an employee if the employee has not signed said authorization card.

- 3.4 The Union shall indemnify and hold the City harmless against any and all claims or suits which may arise out of or result from the deductions of said fees or other action taken pursuant to this Article, said indemnification to include all costs and attorney's fees resulting from any such claims or suits.

4. DUES DEDUCTION:

- 4.1 The City shall deduct Association dues or their fair share on a weekly basis in the amount as determined by the Union membership pursuant to its Constitution and By-laws upon receipt of authorization from employees, who shall sign deduction cards in a form acceptable to the City, a sample copy of which is appended as Appendix A. Said card shall contain a provision that the dues deduction will be canceled only after fourteen (14) days written notice to the City's Director of Human Resources. If the notice of cancellation is not revoked in writing by the member within the 14-day period, the City shall cease making that employee's deduction. The Association and Local 740 shall be given notice of any cancellation of dues by a unit member.
- 4.2 The City shall forward to the Secretary-Treasurer of IAFF Local 740 such deductions each month following the month of deductions.
- 4.3 In the event of a change in the amount of dues voted by Local 740 during the term of this Agreement, the Treasurer of the Union shall notify the Director of Human Resources in writing. After receipt of same, dues as therein noted shall be deemed to have been authorized to be withheld on behalf of the employees who had previously signed authorization forms. The City shall commence said deduction change within thirty (30) days after receiving written notification from Local 740.
- 4.4 The City further agrees to make deductions from employees paychecks for programs provided in Article 18, Insurance, upon the employee's written authorization to make such deductions.
- 4.5 The Association and Local 740 shall indemnify and save the City harmless against all claims and suits which may arise by reason of any action taken in making deductions and remitting same to the Union pursuant to this Article. Notwithstanding the above, nothing herein shall be construed as requiring employees represented by the Association to become or remain members of the Association.

5. MANAGEMENT RIGHTS AND DEPARTMENTAL RULES:

5.1 The City retains all rights and authority to manage and direct its employees except as otherwise specified in this Agreement. The Association acknowledges the right of the City to make appropriate rules and regulations governing the conduct and qualifications of its employees, provided they are not inconsistent with the provisions of this Agreement.

6. ON THE JOB INJURIES:

6.1 Extra-Hazardous Injuries

6.1.1 A Fire Alarm Technician covered by this Agreement who, while performing extra-hazardous activities, receives an injury for which he is subsequently paid benefits under the Worker's Compensation Act, shall receive in addition to such benefits, and as long as such benefits are payable, the difference between compensation for total incapacity under the Act and his net take-home salary at the time of injury, while any such incapacity exists until he is placed on disability retirement, returns to active duty, resigns, or is discharged for just cause.

6.1.2 Net take home salary is defined as the employee's regular gross salary minus his federal and state income tax deductions as of the date of injury.

6.1.3 Extra-hazardous Injuries are defined as follows:

6.1.3(a) Injuries which arise out of and in the course of the operation of a City vehicle in emergency situations.

6.1.3(b) Any other injury occurring during emergency situations due to the exposure of a Fire Alarm Technician to serious risks or hazards not normally encountered as a part of his duties as a communications employee.

6.2 Non-Hazardous Injuries

6.2.1 An employee covered by this Agreement who is injured on the job but such injury is not extra-hazardous as defined above shall be entitled to benefits only pursuant to the Workers' Compensation Act. In the event of a non-hazardous injury, an employee can use accumulated sick leave to make up the difference between his net take-home

salary at the time of injury and benefits payable under Workers' Compensation and to make the 7-day waiting period.

- 6.3 In the event an injury is determined to be extra-hazardous, the 7-day waiting period shall be paid as part of the extra-hazardous compensation due to the employee.
- 6.4 Employees receiving Workers' Compensation benefits under this article, whether an extra-hazardous injury or not, shall continue to accrue sick and vacation benefits during the first twelve (12) months of incapacity. Employees shall not accrue or receive payment for holidays during the duration of their incapacity. Employees may take vacation leave while out on Workers' Compensation, but in no case shall they receive double payment for vacation time.
- 6.5 Employees out on Workers' Compensation, whether an extra-hazardous injury or not, may pay their pension contribution under the rules of the Maine State Retirement System. If such employee contribution is paid while the employee is out on Workers' Compensation or by the end of the calendar year during which the employee lost time, the employee is required to pay their contribution amount. If paid after this date, they will be responsible for their contribution plus interest.

6.6 Transitional Work Program

6.6.1 It is the goal of the City of Portland to assist an employee who sustains a work-related injury to return to the positions they held at the time of their injury. To that end, the City has defined specific work assignments or "Transitional Work" that will be made available to those workers who, in the judgment of the City, will probably be able to return to "Regular Work" within three (3) years of the date of injury. This decision will be based in part on information provided by health care professionals.

6.6.1.1 "Transitional Work" is defined as a temporary job assignment created for the purpose of this provision or a regular job assignment that has been modified to eliminate or significantly limit one or more of its essential functions temporarily for the purpose of this provision.

6.6.1.2 "Regular Work" is defined as the position the employee held at the time of injury or, in the event that position

is not available, another suitable position.

6.6.2 Eligibility

Participation in the Transitional Work Program will be limited to a period of three (3) years after the date of initial injury. In order to be eligible for assignment to Transitional Work, an employee (1) must have sustained an injury arising out of and in the course of employment with the City of Portland; (2) must have the approval of a treating physician; and (3) must sign a Transitional Work Agreement. The City will provide Transitional Work within the injured employee's department providing such work is available.

See Appendix F for a sample transitional work agreement.

6.6.3 Duration of Assignment

An employee who meets the eligibility requirements in this policy will be assigned to the next available Transitional Work assignment and will be permitted to work up to ninety (90) days in that assignment. If at the end of the ninety (90) day period, the employee has not been released to Regular Work, the employee will no longer be eligible for Transitional Work unless further medical evidence is presented that permits the City to believe that, with reasonable further periods of Transitional Work, the employee will probably be able to return to Regular Work. If such evidence is provided, the City may offer additional periods of Transitional Work for up to three (3) years from the initial date of injury.

If, during the course of the Transitional Work, it becomes evident to the City that the injured worker probably will not be able to return to Regular Work within three (3) years of the date of injury, the Transitional Work may be terminated. Such employees retain any rights they may have under M.R.S.A. Sec. 217 with regard to employment rehabilitation.

6.7 Re-employment within Three Years of Date of Injury

6.7.1 If an employee becomes capable of performing the essential functions of the position held on the date of injury, with or without reasonable accommodation, within three (3) years of the date of injury, the employee may return to work in that capacity. Upon return to work, the employee shall receive pay and benefits at the level he/she would

have received if the injury had not occurred.

- 6.7.2 If the employee cannot return to the position held on the date of injury within three (3) years of the date of injury, the City will evaluate the employee's ability to perform other permanent assignments at an equal or lower pay grade within the bargaining unit.
- 6.7.3 Upon a determination of capability to work, the employee will provide the City with his/her current medical restrictions and the positions he/she wishes to be considered for if unable to return to "Regular Work". If the employee is able to return to work for the City, but not in the position held at the time of injury, pay and benefits shall be determined by the City under the appropriate bargaining agreement and with concurrence of the bargaining unit representative. If the employee should return to a non-union position, the City's Non-Union Personnel Policy will determine pay and benefits.
- 6.7.4 The acceptance or refusal of appointment to a position other than the position held on the date of injury shall not terminate the employee's right to seek re-employment in the position held on the date of injury.

6.8 Termination of Employment

- 6.8.1 In those cases in which an employee has been unable to perform all the essential functions of his/her Regular Work for three (3) years from the date of injury, the employee may be terminated from employment. The termination is non-disciplinary. In the event of termination, the employee will receive at least ninety (90) day notification of the termination process and, at the same time, will be requested to provide a current medical report which assesses his/her ability to return to regular Work within the ninety (90) day period.
- 6.8.2 If unable to return to Regular Work by the date specified in the ninety (90) day notification listed in 6.6.4, and providing the up-dated medical evaluation indicates a work capacity, the employee will provide the City with his/her current medical restrictions and the positions he/she wishes to be considered for as an alternative to termination. The provisions of 6.7 will apply if the employee is capable of performing another permanent budgeted position with the City that is available within the ninety (90) day period.

- 6.9 Any interpretation or application of the Workers' Compensation Act shall be

determined by the Workers' Compensation Board and shall not be subject to the contractual grievance/arbitration procedure as outlined in Article 19 of this Agreement.

- 6.10 Notwithstanding the above, all parties reserve their rights under the Workers' Compensation statute and other applicable State or Federal law. Furthermore, it is not the City's nor the Union's position to limit or restrict, in any fashion, the individual's rights granted by any State statute.

7. JOB SPECIFICATIONS:

- 7.1 Within thirty (30) days after execution of the Agreement, the City agrees to supply the Association President with copies of Unit job specifications, including those modified during the negotiations which preceded this Agreement. Thereafter, the City agrees to submit all new and revised job descriptions covered under this Agreement to the Unit President for review and recommendations. Said recommendations must be submitted to the Director of Human Resources within ten (10) working days after receipt of the job specifications.
- 7.2 Employees hired after January 9, 1995 may be required to become EMD certified. Upon receiving their certification they will be eligible for the stipend outlined in Article 25.7.

8. STAFF MEETINGS:

- 8.1 The City agrees to compensate off-duty employees for attendance at mandatory staff meetings posted by the Department Head, or his/her designee, in accordance with Article 26. The purpose of the staff meeting and/or the agenda for the meeting shall be included in the posting notice. Compensation for these meetings for off-duty personnel shall be three (3) hours of straight time pay or time and one-half pay for actual hours spent in the meeting, whichever is greater.

9. FILLING OF JOB VACANCIES

9.1 For purposes of this Article, a job vacancy shall be determined to exist only after official City approval to fill the vacant position has been obtained. Except as provided in 9.1.1 below, job vacancies shall be posted on Departmental bulletin boards for a minimum of seven (7) working days and a copy shall be forwarded to the President of the Association.

9.1.1 The City is not required to post job openings prior to offering that opening to a bargaining unit employee in order to fulfill its requirement to make reasonable accommodation in accordance with federal or state law.

9.2 Applicants for unit vacancies shall be evaluated by the Department Head, or designee, in accordance with the following criteria: 1. Qualifications; 2. Experience; 3. Seniority; 4. Performance; 5. Special Training or Skills; 6. Job-Related Aptitude Test.

9.3 Prior to determining the post-training team assignment (A, B, C, D, E) for a new hire in Telecommunications, current employees will be allowed to request a transfer to the team where the vacancy exists providing they hold the same classification as the vacancy.

9.3.1 The transfer opportunity will be posted within thirty (30) days of the occurrence of the vacancy and the posting will remain open for two (2) weeks. Employees interested in the vacancy must submit a written transfer request within the posting period.

9.3.2 Transfer requests will be awarded based on seniority; however, transfers may be denied for reasons related to the safe and efficient operation of the Emergency Communications Center.

9.3.3 The employee who is awarded the transfer will be notified in writing of the approximate transfer date.

10. INSURANCE:

10.1 Life Insurance:

10.1.1 The present practice with respect to City and employee participation in the cost of the Maine State Retirement System group life insurance premiums shall be continued for the term of this Agreement. At their

own expense, employees may participate in the basic and supplemental term life insurance and dependent insurance offered by the Maine State Retirement System and governed by their procedures.

10.1.2 The City reserves the right to obtain equal to or better than the above-mentioned level of benefits from another source during the life of this Agreement.

10.1.3 The City agrees to continue life-insurance deductions on a pre-tax basis as provided by the Internal Revenue Service.

10.2 Medical Insurance:

10.2.1 The City provides a self insured health insurance benefits program with claims administration by the City's third party administrator. The City reserves the right to implement changes to this primary plan that are recommended by the Health Insurance Advisory Committee and approved by the City Manager.

10.2.2 For employees who are hired into a permanent position prior to January 1, 1985, the City will pay the full cost of the medical insurance premium for an individual or family subscription as appropriate per employee as outlined in 10.2.4 below.

10.2.3 For employees who are hired into a permanent position on or after January 1, 1985, the City will pay the full cost of the medical insurance premium for an individual subscription per employee and in the case of an employee eligible for and electing family coverage, for one-half (1/2) of the difference between the individual subscription rate and the family subscription rate. Employees are responsible for the full payment of the +19 premium. Effective January 1, 2005, there will be no separate +19 premium and the City will pay fifty-three percent (53%) of the difference between the cost of the individual subscription for an employee who is eligible for and elects to have said family medical insurance coverage.

10.2.4 The City will pay, or share in the payment of, whichever is applicable, only the subscription level to which an employee is entitled by virtue of the number of people he may insure. However, employees who are members of the same family and eligible for coverage by more than one family subscription will be entitled to full or part payment, as applicable, from the City for no more than one family subscription,

with other family members entitled only to individual subscriptions. Said subscriptions shall be on the same terms and conditions as specified in 10.2.1, 10.2.2 and 10.2.3 above.

10.2.5 The City will provide the Union with thirty (30) days prior notice of any change in insurance provider, and the Union shall have ten (10) days thereafter within which to comment on such change.

10.2.6 The City shall begin payment on health insurance premiums effective the first month following the employee's date of hire.

10.2.7 Reopener: Notwithstanding any provision of this Agreement, either party may reopen this health insurance article and the salary article on or after July 1, 1994. The salary article shall only be reopened if the health insurance article is renegotiated and upon request of either party. Any subsequent negotiations shall be conducted in accordance with the most recent executed groundrules.

10.2.8 The City agrees to continue dependent care health benefit deductions on a pre-tax basis as provided by the Internal Revenue Service. The City further agrees to continue to offer pre-tax medical reimbursement accounts.

10.2.9 Except as provided in 10.2.10.1 below, the City agrees to continue health care benefit deductions on a pre-tax basis as provided by the Internal Revenue Service.

10.2.10 For the purposes of this article, "family" is defined as spouse or domestic partner, and dependents. To enroll a domestic partner on the City's health insurance plan, the employee must satisfy the City's eligibility requirements for claiming an individual as a domestic partner.

10.2.10.1 The portion of the employee's health insurance contribution for domestic partner coverage, as outlined in 10.2.3 above, will be taken on a post-tax basis.

10.2.10.2 The City's contribution to the premium cost for domestic partner coverage and coverage of dependents of the domestic partner will be reported as imputed income at year end, in accordance with Internal Revenue Service regulations, and will be calculated into the employee's gross earnings as taxable wages.

10.3 Income Protection and Dental Insurance Deductions:

10.3.1 The City agrees to provide an income protection plan of its own choosing for employees and to permit employees to participate in such program at their own cost and through payroll deductions. The City reserves the right to modify its income protection plan at any time.

10.3.2 Employees may participate in any dental insurance plan which may be made available to employees at their own cost and through payroll deductions. Employees may enroll a spouse and dependent children in the plan; effective July 1, 1999 employees may enroll a domestic partner on the City's dental insurance plan providing the employee satisfies the City's eligibility requirements for claiming an individual as a domestic partner. In no case shall the City be required to make a dental insurance plan available to employees, however.

11. PENSIONS:

11.1 Employees who work a normal work week of 21 hours or more per week may participate in one of the following plans for their primary pension plan:

11.1.1 The City shall continue to participate in the Maine State Retirement System Regular Plan pursuant to the Consolidated Plan, Chapter 803, Sec. 7, Paragraph A (Regular Benefit Plan A). The Regular Plan A provides a retirement benefit of one-half of average compensation after twenty-five (25) years of creditable service and upon attainment of age sixty. The City further agrees to continue to participate in the cost of pension payments under the options presently in effect. The pension options shall provide for the (1) so-called high three-year "Average Final Compensation", and (2) years of service over the 50th's denominator, and (3) the minimum pension of \$100 per month for ten (10) years of service, and said options and benefits thereunder shall continue to be made available to employees covered by this Agreement, to the extent such options and benefits shall continue to be made available in the Maine State Retirement System Law and the Consolidated Plan.

11.1.2 The City currently offers an ICMA 401(a) qualified pension plan to new hires and current employees as an alternative to participation in the Maine State Retirement System. Effective January 5, 2003

transfers between the Maine State Retirement System (MSRS) and the ICMA RC plan are allowed to the extent permitted by applicable MSRS laws and rules and pursuant to the plan amendment and the IRS Private Letter Ruling obtained by the City of Portland on October 9, 2002. Transfers are governed by 5 M.R.S.A. Sec. 18252-A which allows employees to move up to two times between the City's two qualified pension plans.

11.1.2.1 If an employee initially elects to join MSRS, the employee may transfer to the ICMA RC 401(a) plan, and has one more opportunity to rejoin MSRS. If an employee initially joins the ICMA RC 401(a) plan, s/he may opt out to join MSRS, then may opt back into the ICMA RC 401(a) plan, but may not rejoin MSRS again.

11.1.2.2 Effective July 30, 2004 employees who transfer from ICMA RC 401(a) to MSRS may elect to transfer monies from their inactive ICMA RC 401(a) plan to the MSRS plan as a "plan to plan" transfer in order to (1) buy back any previous time as a City employee under MSRS by paying their withdrawn employee contributions plus interest and/or (2) purchase service time for the years they participated in the ICMA RC 401(a) plan as a City employee by paying the full "actuarial equivalent" cost (which is both the employee and employer share). The transfer of monies and purchase of service time described herein shall be permitted only to the extent permitted, and pursuant to the MSRS laws and rules.

11.2 The City agrees to continue to participate in a qualified deferred compensation plan for permanent part-time employees who work 20 hours or less per week. The deferred compensation plan provides for immediate vesting and optional withdrawal of the account balance upon the employee's termination.

11.3 The City agrees to continue pension deductions on a pre-tax basis as provided by the Internal Revenue Service.

- 11.4 Any employee hired prior to July 1, 1984 may, at their own expense, buy-back both their share and the City's total contribution obligation for their initial six (6) months of employment in which they were excluded from membership in the Maine State Retirement System. The Association acknowledges that the City shall have no financial obligation under this voluntary buy-back provision.

12. SENIORITY AND PERSONNEL REDUCTIONS:

- 12.1 Seniority is defined as continuous permanent service in the Communications Division(s). In the event of personnel reductions, the City will identify in the budget the positions to be eliminated by department and by classification. Individuals will be laid off solely on the basis of seniority.
- 12.2 If the elimination of positions results in a lay-off, the person(s) in the affected classification in the department with the least seniority will be laid off. Such employees may bump into other unit positions in the following order:
 - 12.2.1 The employee will first be offered any suitable vacancy in the department first and then in the unit which the employee is qualified to perform, as determined by the City. A vacancy shall be deemed to be suitable if it is in the same classification or an equal pay grade as that held by the employee;
 - 12.2.2 If there are no suitable vacant positions, the employee may bump the least senior employee in the same classification in the unit;
 - 12.2.3 If there are no less senior employees in the same classification in the bargaining unit, the employee can bump less senior employees in lower levels of the job family as determined by Appendix C, or the employee can bump a less senior employee in positions once held; or
 - 12.2.4 If there are no available positions under 12.2.1 - 12.2.3 above, the employee may bump less senior employees in positions which the City determines the employee is qualified to perform;
 - 12.2.5 The City's determination as to qualifications of an employee to perform a job shall be final so long as it is not arbitrary and capricious.
- 12.3 Employees may opt to accept lay-off at any point in the bumping process

rather than exercising their bumping rights.

- 12.4 No employee can bump into a promotional classification. An employee who bumps into a position under 12.2.1 - 12.2.4 above will be paid at the range for that position at the step closest to their permanent rate which does not result in an increase.
- 12.5 Employees who are laid off will receive all separation pay to which they would be entitled if they had resigned in good standing.
- 12.6 Seniority rosters will be posted in work locations and sent to the unit president in January of each year.
- 12.7 Employees who are laid-off or who bumped into positions under 12.2 above shall have a 15-month recall right to the classification from which they were laid-off and in the reverse order of lay-off. An employee on lay-off shall keep the City informed of his/her current address and the City may rely on its records for the last address of the laid-off employees, and may remove from the recall list any person who does not respond or accept recall to work within ten (10) days after mailing of notification. A copy of such recall notification shall be mailed to the President of the unit for his information.

13. CLOTHING:

- 13.1 Work uniforms, as described below, will be issued to employees on an as needed basis, each category not to be supplied more than once a year;

13.1.1 Telecommunicators:

- 4 pairs of trousers/slacks or culottes/skirts, the cost of which is consistent with the cost of slacks.

- 5 shirts

13.1.2 Fire Alarm Technicians:

- 5 pairs of trousers

- 3 winter shirts or 2 sweatshirts

- 3 5 t-shirts

- 1 fall/summer jacket

- 1 winter jacket

- 6 patches

- 1 pair of coveralls

- 13.2 Electrical gloves and line gear, appropriately, shall be supplied to Fire Alarm personnel.

14. LEGAL AID AND PROTECTION:

- 14.1 The City shall, with the consent of the employee, assume the defense of and indemnify any employee against a claim which arises out of an act or omission occurring within the course or scope of his employment and for which the City is liable under the Maine Tort Claims Act, 14 M.R.S.A. sub-section 8101 et. seq. The City, in its discretion, may provide such defense and/or indemnification through a self-insurance program or through insurance coverage limited to Four Hundred Thousand Dollars (\$400,000), including costs other than defense costs for any and all claims arising out of a single occurrence, to be purchased by the City.
- 14.2 In any case in which the City is not defending the employee under 14.1 above, the City will, with the consent of the employee, assume the defense of and indemnify the employee, up to the statutory limits of the Maine Tort Claims Act, against any claim which arises out of an act or omission occurring within the course or scope of his employment and for which the City is not liable, provided that such defense or indemnification is not contrary to public policy, and the City determines that the employee acted in good faith and did not willfully or knowingly violate any Ordinance, rule or regulation of the City.
- 14.3 In all cases in which the City has assumed the defense of an employee, the City, acting through its Corporation Counsel, has the right to approve retention of any outside counsel. Further, in all cases in which the City has assumed the defense of an employee, the City Council may, in its discretion, and after consultations with the Corporation Counsel, authorize and accept settlement of the case.
- 14.4 It is a condition of the City's obligation to defend and indemnify an employee hereunder that the employee fully cooperate with the City in any claim by or against the City regardless of whether the employee works for the City at the time that the claim is filed. "Full cooperation" hereunder shall include, without limitation, providing information to the City and its attorneys (including attorneys designated or hired by the City), appearing and/or participating as a witness in the case when requested to do so by the City, including without limitation, participating in all pre-trial and trial proceedings. "City" as used under this section shall include officers, employees and

agents of the City, including, without limitation, attorneys designated or hired by the City. Except in those circumstances where such full cooperation is in conflict with the advice of the employee's legal counsel or is in violation of the employee's constitutional rights, failure to fully cooperate with the City on any case may result in disciplinary action against the employee and denial of the indemnification obligation hereunder unless otherwise required by the Maine Tort Claims Act.

- 14.5 Paragraph 14.4 above may not be construed to imply that an employee who is not a defendant has no duty to fully cooperate with the City and its representatives, when the City and its representatives, in their sole discretion, determine that the employee has information relevant to the claim or the defense of the claim against the City or another employee of the City. In such a situation, except in those circumstances where such full cooperation is in conflict with the advice of the employee's legal counsel or is in violation of the employee's constitutional rights, the non-defendant employee has a duty to fully cooperate with the City as a condition of employment.
- 14.6 The City agrees to release the employee from his/her shift for appearances at any necessary proceedings on the date of such proceedings and at the request of the City's designated defense attorney. Should the proceedings conclude prior to the end of the employee's shift, the employee may be required to report for duty for the remainder of his/her shift.
- 14.7 The rights of the City and the members are governed by this article and are not affected by the terms of any policy of insurance.

15. UNUSED SICK LEAVE UPON SEPARATION:

- 15.1 During the term of this Agreement, when an employee retires from active service with the City and is immediately eligible for retirement benefits pursuant to the Maine State Retirement System as it applies to the City, the employee shall receive an amount equal to his salary at the time of his retirement for one-half (1/2) the number of his accrued sick leave hours; however, no employee shall receive payment for more than seven hundred and twenty (720) hours under this subsection, provided the employee has a minimum of four hundred and eighty (480) hours of unused sick leave accumulated. Retiring, not laid off, employees with less than four hundred and eighty (480) hours of unused sick leave shall not receive any payment.
- 15.2 For resigning employees of good standing with more than three (3) but less than ten (10) years of continuous active service with the City, payment shall be equal to his/her salary at the time of resignation for one-fifth (1/5) of

accumulation with a maximum payment of twenty-four (24) days, provided the employee has a minimum of thirty (30) days of sick leave accumulated. For resigning employees of good standing with ten (10) years or more of continuous permanent service with the City, payment shall be one-half (1/2) of accumulation with a maximum payment of forty-five (45) days, provided the employee has a minimum of sixty (60) days of sick leave accumulated. A good standing resignation is considered to be two (2) weeks notice of resignation.

15.3 In the event of death before retirement of an employee covered by this Agreement, unused sick leave shall be paid, subject to the limitation set forth above for retiring persons, in the salary equivalent as follows:

15.3.1 If said employee leaves a widow, or widower, with whom he or she was living at the time of death, then to such widow or widower.

15.3.2 If no such widow or widower, and said employee leaves a minor child or minor children (including adopted children) then to the guardian of such minor child or minor children.

15.4 In the event of death in the line of duty, unused sick leave hours shall be paid to the employee's beneficiary.

15.5 For purposes of this article, a day is defined as eight (8) hours.

16. SUBSTITUTIONS:

16.1 An employee in the unit may exchange a shift with another qualified employee on another shift, provided:

16.1.1 The exchange is approved in advance by the Department Head or his designee, which approval shall be given only for good reason.

16.1.2 The City shall not be held responsible for enforcing any agreement made between employees and shall be under no financial obligation to substitute for his duty as a substitution.

16.1.3 Substitutions will not ordinarily be permitted for more than three (3) consecutive shifts.

16.1.4 The substitutions are made between equally qualified employees.

17. SICK LEAVE:

17.1 Sick leave shall accrue at the rate of 1.85 hours per each full payroll week with unlimited accumulation. The weekly earnings rate shall be adjusted in the last week of the calendar year in accordance with annual accrual amounts of 96 hours.

17.2 Sick leave may be used only in the following cases:

17.2.1 Personal illness or physical incapacity of such a degree as to render the employee unable to perform the duties of his position, unless the Department Head or his designee determines that the employee is capable of other work in the Department. If requested, the employee shall furnish the Department Head or designee a certificate from his attending physician. Alternatively, the City may require the employee to submit to an examination by a physician of the City's choosing, said expenses to be borne by the City.

17.2.2 Attendance upon members of the family within the household of the employee when the illness requires care by the employee, including domestic partner and his/her relatives who live within the household of the employee not to exceed twelve (12) days per year.

17.2.3 At the discretion of the Department Head or designee, sick leave may be used in the event of the death of an immediate family member as defined in 18.1.2 but in no event for more than three (3) working days.

17.2.4 Employees who wish to use sick leave to care for a domestic partner or member of his/her family in accordance with 17.2.2 above, or in conjunction with bereavement leave in accordance with 17.2.3 above, must satisfy the City's eligibility requirements for claiming an individual as a domestic partner.

17.3 Sick leave use shall be evaluated by the Department Head on an individual case-by-case basis and in accordance with established departmental procedure.

17.4 Personal Leave

- 17.4.1 Any permanent employee working a standard work week who has been employed by the City for twelve (12) consecutive months as of the beginning of the fiscal year is eligible to convert up to one (1) day or eight (8) hours of previously earned sick leave for each six (6) month period during the previous twelve (12) month period that the employee used eight (8) hours or less of sick leave. The six (6) month periods are defined as July 1 through December 31 and January 1 through June 30. Eligible employees may make the personal leave conversion in accordance with the provisions of 17.4.2 during the month of July for use during that fiscal year.
- 17.4.2 Sick leave will be converted to personal leave at the time the conversion is elected. The personal leave balance will change as personal leave time is used. At the end of each fiscal year, each employee may elect one of the following options: (1) convert unused personal leave to sick leave, or (2) retain unused personal leave for use in the next fiscal year. In no event shall the employee's personal leave balance exceed two (2) days at any time and in no fiscal year will they be eligible to use more than two (2) days of personal leave.
- 17.4.3 Neither conversion of sick leave to personal leave nor the subsequent use of personal leave under this section shall be considered to be use of sick leave for purposes of determining eligibility for the Chief's Perfect Attendance Program.
- 17.4.4 The employee will give the Bureau Commander or designee as much advance notice of the use of personal leave as circumstances permit; and in any case the employee will notify the Bureau Commander or designee of the use of personal leave in the same manner as required for sick leave. When using personal leave time, the employee is not required to give the reason for use of such time. Personal leave shall not be used on a holiday and shall not be used on a day for which the employee has requested vacation or other discretionary leave and has been denied that request.
- 17.4.5 Personal leave balances are not payable at separation from employment. However, an employee shall have the option at separation to convert unused personal leave to sick leave.

18. OTHER LEAVE:

18.1 Bereavement Leave

18.1.1 An employee shall be excused from work for up to three (3) consecutive shifts because of death in his immediate family, as defined below, and shall be paid his regular rate of pay for the scheduled working hours missed. It is intended that this time off be used for the purpose of handling necessary arrangements and attendance at the funeral.

18.1.2 Immediate family is defined as spouse, child, parent, brother, sister, mother-in-law, father-in-law, grandparents and grandchildren. Immediate family also includes domestic partner, child of domestic partner, parents and siblings of domestic partner providing the employee meets the City's eligibility requirements for claiming an individual as a domestic partner.

18.2 Funeral Leave: In addition to the foregoing, 1 shift may be used for attendance at the funeral of the following relatives: aunt, uncle, niece, nephew, step-father, step-mother, brother-in-law, sister-in-law, or other relatives living in the same household as the employee. One (1) shift of funeral leave may be used to attend funeral of relative of domestic partner similarly related providing the employee meets the City's eligibility requirements for claiming an individual as a domestic partner.

18.3 Jury/Witness Duty Leave: The City shall pay to an employee called for jury duty or as a witness to a case (wherein the employee is not a plaintiff or defendant in the case) the difference between the regular pay and the juror's pay or witness fee upon presentation of an official statement of pay received. This article does not apply to employees required by the City to appear on behalf of the City at a court hearing; such appearances are covered in Article 24.

An employee excused by the Court for any reason shall be required to return to work promptly thereafter, except when arrangements have been made for replacement for a given work period.

18.4 Military Leave: Military leave and any right to re-employment after such leave shall be available to employees under the terms and conditions of applicable federal and/or state law. Any person restored to service under such law shall be restored with accrued seniority. However, no vacation, sick leave, or other benefits shall accrue during the period of the employee's absence while in the military service to the point of restoration to City service.

18.5 Reserve service leave shall be available to employees who are members of the organized military reserves or National Guard, under the terms and conditions of applicable federal and/or state law. For any period of reserve service leave of up to three (3) weeks in any calendar year, the City will pay the difference between the employee's total service pay for said field duty and the employee's regular compensation, the sum of both payment to equal the regular week's pay of the employee had he/she been in the City service during this period. The employee using reserve service leave shall furnish his/her Department Head with an official statement of reserve service pay received.

18.6 Any disputes as to rights under applicable federal and/or state law in regard to military leave and reserve service leave are not arbitrable but may be determined by a court of competent jurisdiction.

18.7 Disability Leave:

18.7.1 When disabled, an eligible employee may be placed on a leave of absence not to exceed three months if (1) either he or his attending physician requests same, or (2) his attendance or performance becomes unsatisfactory because of the disability. The employee will be notified in writing when the City places the employee on leave. Should the Department Head determine that an employee's attendance or performance is unsatisfactory because of a disability, the employee may be required to take a leave of absence. In making such a determination, the Department Head shall place major emphasis upon the recommendation of the employee's physician, as the recommendation concerns his health and physical capabilities. In the event the employee does not have a physician, the Department Head may direct the employee to go to a physician selected by the City. In order that such physician shall have the necessary facts and the Director of Human Resources shall furnish the physician with a statement concerning the requirements of the job and the conditions under which it is performed. In any instance in which the Department Head requires the employee to go on a leave of absence, if the affected employee files a grievance, the burden of proof shall then be upon the City as to correctness of such determination. In the event such determination is found to be unjustified, the employee involved shall be reimbursed for all lost time and/or restored all lost sick leave credits. The initial twelve (12) week period of disability leave will be processed as Family Medical Leave if the disability is a serious illness under the Family Medical Leave Act.

- 18.7.2 Except for emergencies, the employee shall submit written notification to his Department Head at least one month prior to his anticipated departure stating the probable duration of the leave. The Department Head may require the employee to provide a statement from his physician setting forth (1) the anticipated duration of the disability, and (2) whether he may continue to perform his work assignments.
- 18.7.3 Upon written request of the employee submitted to his Department Head at least two weeks prior to the expiration of the granted leave, and at the discretion of the City Manager, after recommendation of the Department Head and the Director of Human Resources, a disability leave of absence without pay may be extended or renewed for an additional period of time.
- 18.7.4 Disability leaves of absence, including extensions and renewals, shall not exceed a total of twelve (12) months duration.
- 18.7.5 Accumulated sick leave benefits shall be applied to any portion of the requested or required leave so eligible at the option of the employee, but cannot be used to extend a disability leave beyond the twelve-month (12) period.
- 18.7.6 Leaves of absence for disabilities related to pregnancy may be requested under this subsection.
- 18.8 Short-Term Leave of Absence: A regular employee may be granted a leave of absence without pay by his Department Head when approved by the Director of Human Resources, for a period deemed necessary by the employee for the purpose of the leave, but not in excess of 60 days. The employee requesting such leave must make written request at least two weeks in advance of the request date leave is to begin, unless the reason for such leave is of such an emergency nature as to preclude this requirement.
- 18.9 Special Leaves (Long-Term): The City Manager, upon the recommendation of the Department Head and the Director of Human Resources, may authorize special leaves of absence with or without pay for any period or periods not to exceed one calendar year for the following purposes: attendance at college, university or business school for the purpose of training in subjects relating to the work of the employee and which will benefit the employee and the City service; urgent personal business requiring the employee's attention for an extended period, such as settling an estate, liquidating a business; or for

purposes other than the above that are deemed beneficial to the City service. The employee requesting such special leave must make written request at least two weeks in advance of the date leave is requested to begin, unless the reason for such leave is of such an emergency nature as to preclude this requirement.

18.10 Family Medical Leave

18.10.1 An employee who has been employed for twelve (12) consecutive months or who has worked 1250 hours in the last twelve months is entitled to up to a total of twelve (12) weeks of family medical leave in any twelve (12) month period. The twelve (12) month period during which this entitlement may occur is a rolling twelve (12) month period measured backward from the date an employee uses any FMLA leave. The leave shall be an unpaid leave unless the employee elects to use accumulated vacation leave or accumulated sick leave. The employee must give at least 30 days notice of the intended date upon which family medical leave will commence and terminate, unless prevented by medical emergency from giving that notice. Leave may be consecutive, intermittent, or on a reduced hour schedule if the employee and the City agree, or if medically necessary. The City may require medical certification of the need for the leave.

18.10.2 This leave may be requested and must be granted for the birth of a child or to care for a newborn child, or adoption of a child or the placement of a foster child, or for a serious illness of the employee, his or her spouse, domestic partner, child, child of domestic partner, parent or parent of domestic partner. In the event of pregnancy, Family Medical Leave will begin on the date of birth of the child instead of on the date the employee is disabled from performing her job. Serious illness is defined to include an accident, illness or condition posing imminent danger of death, requiring hospitalization for an organ transplant, limb amputation or other similarly severe procedure, or any mental or physical condition requiring constant in-home care.

18.10.3 For leaves of absence taken in accordance with this article, the City will continue the employee's health insurance coverage, and the employee may use accrued sick or vacation credits during such leave. The employee will accrue holiday, vacation

or sick leave credits during the first twelve (12) weeks of such leave, regardless of whether or not the employee is using any accrued sick or vacation leave during such time. After the first twelve weeks, there will be no further accrual of holidays, sick or vacation leave. Seniority, however, will accrue during the term of the leave.

18.10.4 Employees who request to use Family Medical Leave for the purpose of caring for a domestic partner, or child or parent of domestic partner, must satisfy the City's eligibility requirements for claiming an individual as a domestic partner.

18.11 Failure on the part of an employee to return to work on the expiration of the granted leave without having arranged for an extension, or absence from work without a written request for and approval of an extension of the leave, shall be deemed a resignation from service.

18.12 Employee's requests for leaves of absence under this Article shall not be denied in an arbitrary or capricious manner, but remain discretionary with the City.

18.13 For leaves of absence taken in accordance with this article, the City will continue the employee's health insurance coverage, and the employee may use accrued sick or vacation credits during such leave. The employee will accrue holiday, vacation or sick leave credits during the first twelve weeks of such leave, regardless of whether or not the employee is using any accrued sick or vacation leave during such time. After the first twelve weeks, there will be no further accrual of holidays, sick or vacation leave. Seniority, however, will accrue during the term of the leave.

19. GRIEVANCE PROCEDURE:

19.1 Should the Association feel aggrieved concerning the interpretation or application by the City of any provision of this Agreement, the Association may seek adjustment of the grievance as follows:

19.1.1 The Association, through its authorized representative, shall take up the grievance with the employee's immediate supervisor. The supervisor shall meet with the Association within three (3) working days of receipt of notification of the grievance from the Association.

19.1.2 If the Association and the supervisor have not resolved the grievance,

the Association may submit the details of such grievance in writing to the Department Head within five (5) working days after meeting with the supervisor under Step 19.1.1, such details to include:

- 19.1.2.(a) a statement of the grievance including the facts surrounding the issue;
- 19.1.2.(b) identification of the clause, section or provision of the Agreement which is in dispute; and
- 19.1.2.(c) the remedial action requested, when possible or practicable.

The Department Head shall respond in writing to the grievance within five (5) working days of receipt of the written grievance. The Police Chief is the Department Head for all Communications employees except for Fire Alarm personnel and grandfathered Telecommunicators assigned to Fire Dispatch.

- 19.1.3 Within five (5) working days of receipt of the Department Head's decision, the Association may appeal the decision to the Director of Human Resources by filing a copy of the written grievance and the Department Head's decision with the Director of Human Resources. The Director of Human Resources shall meet with the Association, the employee, and other persons deemed necessary for a proper solution of the grievance, and provide the Association with a written response within ten (10) working days of receipt of the appeal.
- 19.1.4 Within five (5) working days of receipt of the decision of the Director of Human Resources, the Association may appeal the decision to the City Manager by filing a copy of the written grievance and the response at Steps 19.1.2 and 19.1.3. The City Manager shall meet with the Association and provide the Association with a written response within ten (10) working days of receipt of the appeal.

19.1.5 In the event that the decision of the City Manager rendered pursuant to 19.1.4 above is not acceptable to the Association, within five (5) working days after receipt of the decision at Step 19.1.4 it may request in writing that the matter be submitted to arbitration. The City and the Association shall mutually agree upon an arbitrator. In the event they are unable to agree upon an arbitrator within seven (7) days of the request for arbitration, the arbitrator shall be selected through the American Arbitration Association in accordance with the rules of said Association then in full force and effect. Thereafter, arbitration shall be had in accordance with the rules of the American Arbitration Association. Said Arbitrator shall have authority to add to, subtract from, or modify the provisions of this Agreement. The arbitrator's decision shall be final and binding upon the parties hereto. The costs of the arbitrator and of the arbitration shall be borne equally by the parties.

19.1.6 The time limits for processing of grievances may be extended by written consent of the parties. Step 19.1.1, 19.1.2 and 19.1.3 in the grievance procedure may be waived by written mutual consent of the parties.

19.1.7 At Steps 19.1.2, 19.1.3 and 19.1.4 of the grievance procedure, the Department Head, Director of Human Resources, or City Manager may designate a Deputy, Assistant, or other duly authorized representative to act on his/her behalf.

19.1.8 All grievances shall be commenced not later than thirty (30) days after the occurrence of one of the following two events, whichever shall be later in time:

19.1.8.(a) The time of the occurrence of the event giving rise to the grievance; or

19.1.8.(b) The time the event became known to either the Association or the employee concerned.

19.1.9 For purposes of this Article, a work day shall be based upon a Monday through Friday, forty (40) hour work week.

20. DISCIPLINE:

- 20.1 Disciplinary actions shall not be taken without just cause in accordance with administrative regulation 25. Just cause shall be deemed to include, but not be limited to, violation of departmental rules and regulations, incompetence, misconduct, negligence, insubordination and intoxication or being under the influence of controlled substances, apart from duly prescribed medications.
- 20.2 The City recognizes the right of employees to request Union representation at disciplinary hearings or investigative interviews.
- 20.3 The Association shall receive written notice of written warnings and suspensions within five (5) days after the effective date of the action. The Association will be copied on all pre-termination hearing notices.
- 20.4 Written reprimands shall be removed from the employee's personnel file after a period of two (2) years, upon written request of the employee, provided that there has not been a recurrence of a similar offense during that two-year period.

21. SAVINGS:

- 21.1 If any provision of this Agreement or any application thereof to any employee or group of employees is found contrary to law, then such provision or application will be invalid or subsisting to the extent permitted by law, but all other provisions or applications shall continue in full force and effect.

22. VACATIONS:

- 22.1.1 Effective August 1, 1998, all permanent employees covered by this Agreement shall accrue 1.54 hours of vacation leave per full payroll week in the first through the fifth years of service.
- 22.1.2 All employees covered by this Agreement shall accrue 2.31 hours of vacation leave per full payroll week in the sixth through the eleventh years of service.
- 22.1.3 All employees covered by this Agreement shall accrue 3.08 hours of vacation leave per full payroll week in the twelfth and succeeding years of City service.

- 22.1.4 All employees covered by this Agreement shall accrue 3.85 hours of vacation leave per full payroll week in the twentieth and succeeding years of City service beginning on the first pay period in January 2003.
- 22.1.5 No more than 320 hours of vacation leave may be accumulated and carried over by an employee:.
- 22.1.6 Vacation leave earnings shall be credited and posted on a weekly basis. For purposes of this article, years of service is defined as consecutive City service. The weekly earnings rate shall be adjusted on the last pay period of the calendar years in accordance with the annual accrual amounts of 80 hours, 120 hours and 160 hours.
- 22.1.7 Employees with twenty (20) or more years of permanent continuous City service on December 1 of that calendar year will receive a vacation cash bonus equal to 40 hours of pay on the first payday in December of that same year providing they are active employees as of the first pay date in December of that year.
- 22.2. The current practice of allowing one person per team to take vacation will continue until trained Telecommunications staff reaches the level of 23. Upon implementation of the five (5) day schedule and to the extent possible and consistent with the needs of the department, two or more Telecommunications personnel per team will be allowed to take vacation during the same weeks or weeks. Employees may submit vacation and holiday requests during the first two weeks in December for the following year or they may submit them throughout the year.
- 22.2.1 Scheduling priority of vacation and holiday requests is outlined in 22.4.
- 22.2.2 In the event that more than two employees on the same work team desire the same time off, and both submitted their request by December 15, seniority and scheduling priority will determine who will receive the time off, except as described below.
- 22.2.2.1 All employees will be awarded two (2) weeks of vacation prior to scheduling the remaining vacation for employees who are entitled to more than two (2) weeks of vacation.

22.2.3 Requests that are submitted throughout the year will be evaluated on a first come-first serve basis. Employees making these requests will not be allowed to bump a less senior employee who may have reserved the desired time off.

22.2.4 Vacation requests will be processed within one (1) month of receipt of the request. Cancellation of previously approved vacations may occur in the event of an emergency as determined by the Police Chief or designee.

22.2.5 For purposes of this article, requests for scheduling holiday credits (single or consecutive) are not considered to be a vacation request.

22.3 Fire Alarm personnel are to submit their vacation requests at least two (2) weeks in advance, except in the event of extenuating circumstances, and must be approved by the Department Head or designee.

22.4 Full week vacation requests will normally take precedence over all other requests, single day vacation requests will normally take precedence over all holiday requests, and requests to take five (5) holidays in a block will normally take precedence over all single holiday requests.

22.5 Once vacations have been schedule, an employee may change the dates of their vacation subject to availability of desired dates.

23. HOLIDAYS:

23.1 The following holidays shall be paid holidays as of the day observed, for all employees covered by this Agreement:

23.1.1 New Year's Day

23.1.2 Martin Luther King's Day,

23.1.3 President's Birthday

23.1.4 Patriot's Day

23.1.5 Memorial Day

23.1.6 Independence Day

23.1.7 Labor Day

23.1.8 Columbus Day

23.1.9 Veteran's Day

23.1.10 Thanksgiving Day

23.1.11 Christmas Day

In addition to the above, any special non-recurring holiday declared by the

President of the United States or the Governor of the State of Maine and observed by other City employees pursuant to order of the City Council of the City of Portland shall be allowed as an additional holiday.

- 23.2 In addition to the foregoing holidays, each employee in the unit shall be entitled to one (1) floating holiday annually. The date on which Telecommunications personnel take the floating day is to be worked out in advance with his/her Department Head or designee. Fire Alarm personnel will take their floating holiday on the day after Thanksgiving Day.
- 23.3 If one of the above-described holidays falls on an employee's regularly scheduled work day, such employee shall receive his regular pay plus a compensatory day off. In lieu of his compensatory day off, an affected employee may elect to cash in the compensatory holiday day. If the employee is on scheduled vacation, the employee will receive holiday pay unless he/she opts to charge the observed holiday as a day of vacation leave. If the employee elects this option they will also receive a holiday credit. In no event shall an employee be permitted to charge an observed holiday as a day of sick leave.
 - 23.3.1 Employees who work on Christmas Day will receive additional holiday pay at the employee's straight time rate for actual hours worked.
- 23.4 If one of the above-described holidays falls on an employee's regularly scheduled day off, the employee shall be credited with a compensatory day off, to be utilized within calendar year of accrual. Alternatively, an employee may elect to receive compensation of the day's pay in lieu of a compensatory day off.
- 23.5 In no event may more than four (4) holidays be carried over to the next calendar year.
- 23.6 In the event of an employee's separation from City service no more than five (5) accumulated holidays shall be compensated for by the City except, in the case of medical disability, the actual number of accumulated holidays shall be compensated for, up to a maximum of ten (10) accumulated holidays.
- 23.7 The City agrees to keep a written record of employees' holidays and to furnish this information to an employee upon request.
- 23.8 Time off requests are to be submitted to the appropriate Department or Division Head at least two (2) weeks prior to the desired shift(s) off. Holiday requests may be submitted during the first two (2) weeks of December for

the following year. Such requests will be evaluated in accordance with procedures outlined in Article 22.2 providing staffing needs can be fulfilled with available unit personnel. An employee shall be entitled to withdraw a request for use of holiday time up to 48 hours prior to the scheduled time provided the employee obtains agreement of the replacement prior to notifying management of the cancellation.

- 23.9 The Maine State Retirement System clarified their definition of earnable compensation effective July 1, 1990. Effective August 1, 1991 employees who cash in holiday credits will not have pension contributions deducted from those payments. Holidays cashed in after the week in which they occur will be pensioned if and only if holiday hours when combined with other hours paid that week total less than or equal to forty (40) hours.

Employees who elect to take payment for their holidays as they occur will have pension contributions deducted from these holiday payments. Floating holidays when cashed in will be considered to be taken during the week in which they occur and will be pensioned as long as they are not carried into the next calendar year.

Members may receive reimbursements from Maine State Retirement System for pension contribution deductions taken during the period from July 1, 1990 through July 1991.

24. OVERTIME

- 24.1 Employees who work hours in excess of forty (40) hours per week will be compensated at one and one-half times their total hourly rate. At the employee's option and upon the scheduling approval of City management, the employee may elect to receive compensatory time off at the 1.5 rate.
- 24.2 Call-In Time: If an employee is called in to work outside of their regularly scheduled shift, the employee shall receive a minimum of three (3) hours straight time pay or may receive one and one-half times their base hourly rate, whichever is greater, but not both.
- 24.3 The City reserves the right to assign overtime vacancies to be filled by members of another classification within the Unit where necessary under the circumstances. In such cases, members of a higher pay classification shall receive their own rate of pay.
- 24.4 Vacant shifts will be filled in accordance with the following procedures:

- 24.4.1 When management determines a vacant shift needs to be filled, and a trained person on that shift is not available to fill the vacancy, management will attempt to fill that shift as an overtime shift on a voluntary basis by canvassing other employees in the same classification in accordance with departmental policy other employees in the same classification in accordance with departmental policy.
- 24.4.2 If the vacant shift position is not filled through the procedure outlined in 24.4.1, management will canvass qualified employees in other bargaining units before initiating the force procedure outlined in 24.4.3.
- 24.4.3 If an overtime shift cannot be filled through the voluntary procedures described in 24.4.1 and 24.4.2, employees may be forced to work an overtime shift. Prior to initiating the force procedure for scheduled overtime, another voluntary canvass will be conducted 24 hours prior to when the overtime is scheduled to occur. A rotating force procedure will be used that forces two persons to work a four (4) hour extension of their regular shift. One person will be held over four (4) hours and the second person will be forced in four (4) hours early. The initial persons forced from a given shift will be the junior qualified person on their shift and subsequent forces from that shift will rotate in order of reverse seniority. Employees on a day off will not be subject to the force procedure. In the event that the individual scheduled to be forced in does not arrive as scheduled, the employee held over for four (4) hours may be required to work an additional four (4) hours. Employees may not leave work until relief arrives as they receive management's approval to leave.
- 24.5 Employees who are required by the City to appear on behalf of the City at a Court hearing during off-duty hours will be compensated with three (3) hours of straight time pay or time and one-half pay for actual time spent in pre-trial and trial proceedings, whichever is greater. Employees who are on-duty will receive straight time pay for the hours spent in pre-trial and trial proceedings. In the event that the time spent in pre-trial or trial proceedings begins during on-duty hours and extends into off-duty hours, the employee will be eligible for overtime pay for the additional hours but will not be eligible for the three (3) hour minimum for the off-duty hours. The Chief may, at his discretion, approve additional compensation for travel time as he deems appropriate.

25. WAGES:

- 25.1 Effective July 3, 2005, employees shall be paid in accordance with the new pay plan attached as Appendix D. All employees in a permanent position as of the execution date of this Agreement shall be integrated into the pay plan at their proper length of service step at the appropriate range for their classification.
- 25.2 Effective July 2, 2006, the pay plan shall be adjusted by ~~2~~3%. Employees shall be placed on their proper salary step within the pay plan attached as Appendix D.
- 25.3 In the event that an employee is promoted to another unit position, then such employee will be paid at the minimum rate of the range for his/her position or shall receive a 5% increase, whichever is greater.
- 25.4 Placement of new hires on the salary schedule may be up to step 2 for Telecommunications personnel and up to step 3 for Fire Alarm personnel at the sole discretion of the City Manager.
- 25.5 In the event that an employee is demoted to another unit position, then such employee will be paid at the rate which does not result in a salary increase on the anniversary date of the collective bargaining agreement regardless of seniority in the new classification.
- 25.6 The employee's step movement on the pay plan shall be determined by the employee's appointment date. Appointment date is the date the employee was hired in his/her current position.
- 25.7 Telecommunicators who obtain their Emergency Medical Dispatch certification through a program approved by the City are eligible for the \$15 per week stipend effective at the beginning of the pay period after the City receives verification of certification. The employee must keep their certification up-to-date in order to continue receiving the stipend.
- 25.8 Fire Alarm Technicians who obtain their International Municipal Signalman's Association Level II certification are eligible for a \$15 per week stipend effective at the beginning of the pay period after the City receives verification of the certification. The stipend shall continue for the duration of the current collective bargaining agreement providing the employee maintains their certification.
- 25.9 Fire Alarm Technicians who possess a Journeyman Electrician License or who obtain such license during the term of the contract are eligible to receive a

\$15 per week stipend effective at the beginning of the pay period after the City receives verification of the certification. The stipend shall continue for the duration of the current collective bargaining agreement providing the employee maintains the certification.

25.10 Fire Alarm Technicians who possess a Master or Limited Master Electrician License or who obtain such license during the term of the contract are eligible to receive an additional \$15.00 per week stipend, for a maximum weekly stipend amount of \$30.00 per week for Electrician licenses, effective at the beginning of the pay period after the City receives verification of the certification. The stipend shall continue for the duration of the current collective bargaining agreement providing the employee maintains the certification.

25.11 Fire Alarm employees who have successfully completed the required training and who are assigned to program radios for the Fire Department will receive a \$15 per week stipend.

25.12 Employees who are designated to be in charge on a temporary basis will be paid at the recruit rate of the appropriate supervisory pay scale or at the rate on the Supervisor scale which guarantees them a three percent (3%) increase, whichever is greater.

25.13 Shift Differential

Telecommunicators whose regular shift assignment is to a shift for which the majority of hours between 2:00 p.m. and 6:00 a.m. shall be paid a shift differential as follows: \$.40 per hour for B team, \$.45 hour for D Team and E Team, \$.50 per hour for C Team.

25.13.1 Telecommunicators assigned to the above Teams but who work a part of their week on days at the Department's request will receive night shift differential; however, those employees assigned to these Teams who work a part of their week or a full week on days at their own request will not receive night shift differential.

25.13.2 Telecommunicators who are not regularly assigned to one of the above teams and who are assigned to work one of the above schedules for less than a full week are not eligible for shift differential. Telecommunicators who are not regularly assigned to one of the above teams but who are temporarily assigned by the Department to one of these teams for a full

week or longer are eligible for the appropriate shift differential for the duration of the assignment.

25.14 Stand-By Pay

Effective July 6, 2003, Fire Alarm employees will receive \$12 per day for each full day they are on-call. When scheduled to be on-call, employees will carry a pager on their person and will respond to questions over the phone. The employee on call will respond to work as needed and within a reasonable time frame, but not to exceed one (1) hour. The employee on call will not receive any extra compensation for responding to questions over the phone but will receive additional compensation as outlined in 24.2 when it is necessary for them to report to work in response to a page.

25.15 Re-opener

In the event that the City secures funding during the term of this agreement to staff an emergency dispatch operation within the Fire Department, the Union agrees to re-open the 2005-2007 contract on or after January 1, 2006 to discuss the articles in this contract that such a change would impact. The parties would meet immediately following the City's written notice to the Union of the intent to exercise this re-opener and would execute written ground rules for the negotiations at that time. The City would then obtain guidance for these negotiations from the City Council and both parties will have full access to impasse procedures as defined by State statute.

26. HOURS OF WORK:

26.1 The regular work week for Fire Alarm employees shall consist of five (5) eight (8) hour shifts. The regular work cycle for Telecommunications shall consist of five (5) eight-hour shifts.

26.1.1 These schedules are subject to any existing rights of the City under the Municipal Employee Labor Relations Act to temporarily modify the work schedule due to unforeseen emergencies. In any event hours worked in excess of forty (40) will be paid in accordance with Article 24.

26.1.2 The schedules of employees working on the E-Team may be modified at the City's discretion. The City agrees to give the employee and the Union prior notification when changing the hours of a Telecommunicator working the E-Team. Except in the event of an

emergency or for good cause, the City agrees to provide the employee with two (2) weeks advance notice of work schedule changes.

26.2 Employees shall be paid for the hours they actually worked in the preceding week (Sunday through Saturday).

26.3 Hours Worked

26.3.1 For the purposes of this Article "hours worked" shall mean only the following:

- (a) Hours actually worked for and paid by the City of Portland.
- (b) Hours compensated for by holiday compensatory time off.
- (c) Hours compensated for by vacation pay.
- (d) Hours compensated for by bereavement leave pay.

26.3.2 For the purpose of this Section, "hours worked" shall not include:

- (a) Hours compensated by sick leave.
- (b) Hours compensated by for reserve service leave or military special duties.
- (c) Hours compensated for by jury/witness pay.
- (d) Hours compensated for by "extra-hazardous injury" pay.
- (e) Hours compensated for by Worker's Compensation pay.
- (f) Hours compensated for by funeral leave.
- (g) Hours compensated for by personal leave.

26.4 The City reserves the right to assign overtime vacancies to be filled by members of another classification within the unit where necessary under the circumstances. In such cases, members of a higher pay classification shall receive their own rate of pay.

27. LICENSE FEES:

- 27.1 The City agrees to continue to pay the renewal fees for the State Electrician Licenses for Fire Alarm Technicians on the same basis as it has in the past.
- 27.2 The City agrees to pay Emergency Medical Dispatch certification and recertification fees for Telecommunicators who are licensed by a program approved by the City.

28. TIME OFF WHILE PERFORMING ASSOCIATION BUSINESS:

- 28.1 Association representatives shall be allowed reasonable time off without loss of any pay or other benefits for representation and to represent members at any grievance procedure or departmental hearing and shall be allowed sufficient time to interview and represent a requesting member during all stages of a grievance procedure.
- 28.2 Members of the Negotiating Committee shall be allowed sufficient time off without loss of pay or other benefits to represent the Association on all negotiations with the City concerning the Collective Bargaining Agreement.
- 28.3 The Association shall keep a list of all such Representatives referred to above, to be kept at the office of the Department Head or his designee for the purpose of verifying the status of the Association's President, Board of Directors, Executive Committee, Negotiating Committee and Representatives.

29. STRIKES, SLOWDOWNS AND LOCK-OUTS:

- 29.1 The parties hereto agree that there will not be, and that the Association, its officers, members, or agents, will not engage in, encourage, sanction, or suggest strikes or slowdowns which would involve suspension of or interference with normal work. In return the City agrees that there shall be no lock-out of employees in this unit during the term of this Agreement.

30. TRAINING

- 30.1 All employees covered by this agreement will be required to cross-train to perform all functions of the Emergency Communication Center.
 - 30.1.1 Employees hired prior to November 27, 1994 who are not fully cross-trained are required to put forth a good faith effort to learn all functions of the Emergency Communications Center. They will be paid in accordance with the revised pay scale providing they meet this requirement.

30.2 In July 1995, Emergency Medical Dispatch training will be offered to Telecommunications personnel. Eligibility for initial training opportunities is at the discretion of the Director of Support Services and will be based on team assignment, individual interest and seniority.

31. WITHDRAWAL OF RESIGNATION:

31.1 An employee may resign in good standing by giving written notice to his Department Head at least fourteen (14) calendar days prior to the effective date of the resignation. With the approval of the Department Head, the employee may withdraw such resignation during the fourteen (14) day notice period. Such approval shall not be arbitrarily denied.

32. NO DISCRIMINATION BY PARTIES

The parties to this Agreement agree that pursuant to State and Federal law and City ordinance, they shall not unlawfully discriminate against any employee because of race, color, religion, sex, sexual orientation, national origin, age, physical or mental disability.

33. EMBODIMENT OF AGREEMENT:

33.1 Neither party shall be required to negotiate further on any issue which was a bargained subject during negotiations for this successor collective bargaining agreement. The parties may, upon mutual written agreement, re-open any provision of this Agreement.

34. LABOR-MANAGEMENT COMMITTEES:

34.1 Two labor-management Advisory Board sub-committees will meet during the first year of this contract. One sub-committee will recommend revisions to the performance appraisal process that is currently in effect for this unit. The second sub-committee will monitor training efforts and will make recommendations to the Advisory Board regarding training process and training materials.

35. TERM OF AGREEMENT:

35.1 This Agreement shall be effective and shall govern the rights and obligations of the parties hereto from July 1, 2005, up to and including June 30, 2007.

IN WITNESS WHEREOF, The City has caused this Agreement to be executed by Joseph E. Gray, Jr., its City Manager, thereunto duly authorized, and the Association has caused this instrument to be signed by its President, thereunto duly authorized, as the day and year first above written.

WITNESS:

CITY OF PORTLAND

By _____
Joseph E. Gray, Jr., City Manager

By _____
Robert Reynolds, IAFF Local 740 President

APPENDIX A

EMPLOYEE VOLUNTARY DEDUCTION FORM

Employee Name (Print, last name first)

Social Security Number

Code

*Amount

*All amounts are replacement figures only

Add/Change/Delete

Pay Date Effective

Signature _____

=====

**PAYROLL
ADDING/CHANGING/DELETING**

**HUMAN
DELETING**

RESOURCES

Code	Description
PH	403(B) SRA – LIBRARY
I4	MMEHT IP – LIBRARY
UA	LIBRARY UNION DUES FT
UB	LIBRARY UNION DUES PT
UC	PRO-TECH UNION DUES
UD	PRO-TECH FAIR SHARE
UK	PBA UNION DUES
UL	SOA UNION DUES
UM	IAFF DUES FIRE/MEDCU
UN	IAFF DUES – COMMUNICATIONS
UO	IAFF DUES – COMM FAIR SHARE
IA	IAFF COLONIAL INSURANCE
IB	PPA INSURANCE
D1	PUBLIC SAFETY DENTAL – SINGLE
D2	PUBLIC SAFETY DENTAL – DEP
R1	UNIFORM RENTAL – CINTAS
RE	REAL ESTATE TAXES

Code	Description
I1	MMEHT IP – 70%
I2	MMEHT IP – 55%
I3	MMEHT IP – 40%
D1	CITY DENTAL INS – SINGLE
D2	CITY DEAL INS – 2 PERSON
D3	CITY DENTAL INS – FAMILY

APPENDIX B

JOB FAMILIES

1. Telecommunications Supervisor

Telecommunicator

2. Fire Alarm Supervisor

Fire Alarm Technician

**APPENDIX C
COMMUNICATIONS SENIORITY LIST**

<u>Employee</u>	<u>Classification</u>	<u>Seniority Date</u>
DeVoe, Gary	Telecommunicator	10-29-78
Richards, James	Telecommunicator	12-21-80
Dennison, Herbert	Telecommunicator	04-30-89
Dobson, Diane	Telecommunicator	10-01-89
Ray, Bonnie	Telecommunicator	12-24-89
Mazer, Lance	Telecommunicator	07-30-95
Morriseau, James	Telecommunicator	07-05-98
Dees, Joyce	Telecommunicator	07-25-99
Hawkes, Anne-Marie	Telecommunicator	05-21-00
Brewster, Cheryl	Telecommunicator	09-24-00
Dziegielewski, Andrew	Telecommunicator	04-22-01
Bell, Jesse	Telecommunicator	05-06-01
Lutzke, Mitchell	Telecommunicator	05-13-01
Elkanich, Kurt	Telecommunicator	12-07-03
Nash, Tyler	Telecommunicator	02-01-04
Day, Jessica	Telecommunicator	02-08-04
Herbert, Mary	Telecommunicator	04-24-05
Finley, Zachary	Telecommunicator	04-24-05
Cotton, Jesse	Telecommunicator	04-24-05
Riddell, Lisa	Telecommunicator	04-25-05
Williams, Bradford	Telecommunications Supervisor	06-18-89
Dunton, Timothy	Telecommunications Supervisor	01-07-01
Grant, Kathi	Telecommunications Supervisor	01-07-01
Gorham, Susan	Telecommunications Supervisor	11-30-03
Doucette, Debbi	Telecommunications Supervisor	05-06-01
Diaz, Bienvenido	Fire Alarm Supervisor	08-14-78
Lord, Stephen	Fire Alarm Technician	09-01-88
Andrews, Richard	Fire Alarm Technician	10-06-97
Perron, Donald	Fire Alarm Technician	09-21-98

**APPENDIX D
2005-2007 COMMUNICATIONS PAY PLAN**

<u>Job Classification</u>	<u>Steps</u>	<u>Effective 7-3-05</u>	<u>Effective 7-2-06</u>
		hourly	hourly
Telecommunicator	Recruit	\$14.65	\$15.09
	6 mos.	\$15.81	\$16.28
	3 yrs.	\$16.97	\$17.48
	4 yrs.	\$18.15	\$18.69
Telecommunications Supervisor	At Promotion	\$18.74	\$19.30
	1 yr.	\$19.32	\$19.90
	3 yrs.	\$19.91	\$20.51
Fire Alarm Technician	Recruit	\$14.28	\$14.71
	6 mos.	\$14.85	\$15.30
	1 yr.	\$15.45	\$15.91
	2 yrs.	\$16.06	\$16.54
	3 yrs.	\$16.71	\$17.21
	4 yrs	\$17.38	\$17.90
Fire Alarm Supervisor	Recruit	\$17.66	\$18.19
	1 yr.	\$18.22	\$18.77
	2 yrs.	\$18.77	\$19.33
	3 yrs.	\$19.32	\$19.90
	4 yrs.	\$19.87	\$20.47

APPENDIX E

AGREEMENT FOR TRIAL WORK

The Employee and Employer hereby enter into this agreement for a period of Transitional Work, as follows:

- 1) The date upon which the Employee sustained an injury is _____, 20____.

- 2) Pursuant to the City of Portland's Transitional Work Policy, the Employee will return to work in a Transitional Work Assignment on _____, 20__ .

- 3) Attached is a copy of the Transitional Work Policy of the City of Portland, which the Employee has read and understood.

- 4) The parties agree that the term of this Transitional Work assignment shall be up to 90 days, from the return to work date above until _____, 20____.

Dated this _____ day of _____, 20_____.

Employee

City of Portland

APPENDIX F

MEMORANDUM OF UNDERSTANDING

The current E-Team schedule will continue for the duration of the 2005-2007 collective bargaining agreement providing that this schedule does not contribute to an increase in the Police Department's overtime costs.

One position with regular hours of 2:00pm-10:00pm on Sunday and 10:00am-6:00pm Monday through Thursday

One position with regular hours of 2:00pm-10:00pm on Sunday and 6:00pm-2:00am on Wednesday through Saturday

One position with regular hours of 2:00pm-10:00pm on Sunday, 6:00pm-2:00am on Monday and Tuesday, and 10:00am-6:00pm on Friday and Saturday.

One position with regular hours of 2:00pm-10:00pm on Sunday and 2:00pm-10:00pm on Wednesday through Saturday

The E-Team Supervisor's schedule will flex as necessary with the schedule being established on a monthly basis – changes to the monthly schedule will be made with two (2) weeks prior notice when possible.

In the event that this schedule contributes to an increase in the Police Department's overtime costs, the parties will meet and discuss the issues related to the schedule and the increase in overtime costs.

The success of this schedule will be dependent in part upon continued progress regarding cross-training efforts within the Emergency Communications Center. The parties agree to work in cooperation throughout the term of this contract to substantially increase the number of fully cross-trained Telecommunicators.

Agreed to by:

City of Portland

Date

IAFF Local 740

Date